

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No.1600/2013**

% **18th November, 2013**

GAUTAM KUMAR AND ANR. Petitioners
Through: Mr. Arjun Natrajan, Advocate.

Versus

OIL AND NATURAL GAS COPORATION LTD. AND ANR.
... Respondents
Through: Mr. V.N. Kaura, Advocate for
respondent No.1.
Mr. A.K. Dubey, Advocate for
respondent No.2.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition, the petitioners, who were having Post Graduate Diploma in Management (PGDM) and were aspirants to the posts of Graduate Trainees (Finance & Accounts) in terms of advertisement no.3 of 2012(R&P) issued for the recruitment for the year 2012 by the respondent no.1, seek the relief of being considered for appointment. The limited issue before this Court is whether having a Post

Graduate Diploma in Management (PGDM) is a qualification which is
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acceptable as per the subject advertisement for being appointed as a Graduate Trainee (Finance & Accounts).

2. Let me therefore at this stage reproduce the relevant portion of the advertisement with regard to appointment of Graduate Trainees (Finance & Accounts) and the same reads as under:-

A. DETAILS OF DISCIPLINES AND MINIMUM ESSENTIAL QUALIFICATIONS

Sl. No.	Discipline	Posts						Minimum Essential Qualification (Refer point B also)
		Gen	OBC	SC	ST	PWD	Total	
-	-							
16.	Finance & Accounts	23	10	-	1	* (HH)	34	Graduate Degree with ICWA/CA or MBA with specialization in Finance with minimum 60% marks

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GENERAL INSTRUCTIONS

(a) The courses offered by Institutions/Universities through the regular mode should be approved/recognized by Association of Indian Universities (AIU)/UGC/AICTE. And in case of distance education courses the same should be recognized by the joint committee of DEC, UGC and AICTE.

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3. A reading of the aforesaid requirement shows that the requirement which is stated to be a valid qualification as per the respondent No.1/employer is a degree in ICWA/CA or MBA. Therefore, it is only a degree which is required as a qualification for appointment and not a diploma. It cannot be, and it was not disputed on behalf of the petitioners,

that it is the employer which decides what are the qualifications which are required for appointment to the post and the Courts cannot substitute their views for that of appointing authority to decide what should be the qualifications for appointments unless of course there is ex facie violation of Article 14 or any gross arbitrariness apparent on the face. Since the requirement is only of an MBA and not PGDM, I cannot hold that PGDM should be treated equivalent to MBA.

4. On behalf of the petitioners, reliance placed upon the general instructions of the advertisement reproduced above of recognition by the Association of Indian Universities cannot help the petitioners because recognition also will have to be by the Association of Indian Universities with respect to MBA degree and not of PGDM. Therefore, no benefit can be derived by the petitioners of the portion of the general instructions of the advertisement which is relied upon.

5. On behalf of the petitioners, in the rejoinder affidavit names of four persons were given who were appointed in the years 2002, 2009 and 2010 to the posts of Graduate Trainees (Finance & Accounts) and it is contended therefore that PGDM is being accepted by the respondent no.1 for appointment to the post of Graduate Trainees (Finance & Accounts). Since this was an issue of substance I had called additional pleadings, and

the additional pleadings filed by the respondent no.1 show that at no point of time PGDM has been accepted as equivalent to MBA for recruitment for the posts of Graduate Trainees (Finance and Accounts) and the four persons whose names are given in the rejoinder affidavit of the petitioners were wrongly recruited by an honest mistake. It is stated that now necessary action in accordance with law will be taken against the four persons as stated by the petitioners who were appointed although they did not have MBA Degrees but only had PGDM qualification. It is also argued on behalf of respondent no.1 that a bonafide mistake which took place with respect to some persons, though PGDM is generally not taken as a valid qualification for appointment to the posts of Graduate Trainees (Finance & Accounts), cannot give any legal right to the petitioners. I am inclined to agree with this argument of respondent no.1 inasmuch as PGDM has not been accepted by the respondent no.1 generally for appointment to the post of Graduate Trainees (Finance & Accounts) and mistakes committed by some officers cannot give any legal right to the petitioners, more so because respondent no.1 states that not only the four persons as stated by the petitioners have been appointed by mistake but now a computer system has been created whereby PGDM qualification is treated as a disqualification and not equivalent to an MBA degree for being

appointed as Graduate Trainees (Finance & Accounts) with the respondent no.1.

6. In view of the above, I am not inclined to agree that the PGDM should be taken equivalent to MBA for appointment as Graduate Trainees (Finance & Accounts) of the respondent no.1. As already stated above, it is the respondent no.1 which is fully entitled to decide its requirements and qualifications for appointments to be made to a particular post.

7. The writ petition is accordingly dismissed with the observations that in accordance with law respondent no.1 shall take action against the four persons who have been wrongly appointed taking on record the fact that the respondent no.1 states that appointments of four persons is on account of mistake, and the same is not a deliberate action to give entitlement to PGDMs. Parties are left to bear their own costs.

NOVEMBER 18, 2013
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VALMIKI J. MEHTA, J.